



VIA FAX 613- 952-7226

May 27, 2016

Administrator  
Federal Court of Appeal  
Thomas D'Arcy McGee Building  
90 Sparks Street  
Ottawa, Ontario  
K1A 0H9

**Re: Dr. Gabor Lukacs v. Canadian Transportation Agency and Newleaf Travel  
Company Inc. - Court File No.: 16-A-17**

This is in response to the Moving Party's May 18, 2016 letter to the Court seeking Directions pursuant to Rule 318(3) of the *Federal Courts Rules*. The Agency essentially concurs with the submissions from Counsel for NewLeaf to the effect that the request is premature and that if a procedure is established the onus should be on the Moving Party to bring a motion seeking production of the requested documents.

The Moving Party filed his Reply in the motion for leave to appeal on May 26, 2016. While the Moving Party makes reference therein to the objections made to the Rule 317 request, it would otherwise appear that the pleadings are complete on the motion for leave. Therefore, it is submitted that should leave be granted, the Rule 317 request could be made in the context of the Appeal once filed.

It is further submitted that it should be the Moving Party who should bring a motion to have the requested documents produced.

The Moving Party's request under Rule 317 was for a certified copy of the following material that is not in possession of the Moving Party, but is alleged to be in the possession of the Canadian Transportation Agency (Agency);

1. All documents in Case No. 15-03590.
2. The confidential decision of the Agency, dated August 21, 2015, referenced in Letter Decision No. LET-A-3-2016 and in paragraph 48 of the decision which is the subject matter of the motion for leave to appeal.
3. All correspondence sent and received by the Inquiry Officer and/or Agency staff acting on behalf of the Inquiry Officer in relation to the inquiry.

4. The Preliminary Report of the Inquiry Officer, referenced in Letter Decision No. LET-A-3-2016.
5. The final report of the Inquiry Officer.
6. NewLeaf's response to the Inquiry Officer, referenced at paragraph 49 of the decision which is the subject matter of the motion for leave to appeal.

The Agency produced the public submissions that had been made in the context of the inquiry. However, objections to producing the other documents were made, not just on the basis of confidentiality, but on the basis of;

- (a) a lack of specifics – for example, the Moving Party sought productions of all documents in Case No. 15-03590 without explaining on what basis all of these documents would be relevant to the Appeal;
- (b) irrelevance; and
- (c) the document does not exist – this is the case for #5 above.

Given the objections being raised, it is submitted that the onus should be on the Moving Party to explain what documents he is seeking and how these documents are relevant to the Appeal. While the Moving Party refers to the Court's Order made in the context of the Application for Judicial Review, in that case the Moving Party had specified which document he was seeking, which involved only confidential decision(s) in one matter, and the main issue was confidentiality. Here, the objections are broader and it is submitted that the onus should be on the Moving Party to specify the documents and explain their relevance, rather than reversing the onus and requiring the Agency to determine precisely what is being sought and why.

Trusting the foregoing is satisfactory, I remain,

Yours truly,



 Allan Matte  
Counsel  
Canadian Transportation Agency  
Legal Services Directorate  
15 Eddy Street, 19<sup>th</sup> Floor  
Gatineau, Quebec  
K1A 0N9  
Tel: (819) 994-2226  
Fax: (819) 953-9269

c.c.:

**Dr. Gabor Lukacs**

Halifax, NS

[Lukacs@airpassengerrights.ca](mailto:Lukacs@airpassengerrights.ca)

**Brian J. Meronek, Q.C.**

D'arcy & Deacon LLP  
2200 – One Lombard Place  
Winnipeg, Manitoba  
R3B 0X7

[bmeronek@darcydeacon.com](mailto:bmeronek@darcydeacon.com)

Counsel for NewLeaf Travel Company Inc.